

# **EXHIBIT A**

# **EXHIBIT A-1**

## CIVIL CASE INFORMATION SHEET

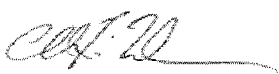
CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

CEDAR POINT CONDOMINIUMS V. EVEREST INDEMNITY INSURANCE COMPANY, ENGLE MARTIN AND ASSOCIATES, INC., EDWARD MARTIN SEWELL JR., ERIK JASKE, AND HARMON HAMANN  
STYLED

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

<b>1. Contact information for person completing case information sheet:</b>  Name: Chad T. Wilson Email: cwilson@cwilsonlaw.com  Address: 455 E. Medical Center Blvd. Ste 555 Telephone: 832-415-1432  City/State/Zip: Webster, Texas 77598 Fax: 281-940-2137  Signature:  State Bar No: 24079587		<b>Names of parties in case:</b> Plaintiff(s)/Petitioner(s): Cedar Point Condominiums  Defendant(s)/Respondent(s): Everest Indemnity Insurance Company, Engle Martin & Associates, Inc., Edward Martin Sewell Jr., Erik Jaske, and Harmon Hamann <small>[Attach additional page as necessary to list all parties]</small>		<b>Person or entity completing sheet is:</b> <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other:  Additional Parties in Child Support Case:  Custodial Parent:  Non-Custodial Parent:  Presumed Father:	
<b>2. Indicate case type, or identify the most important issue in the case (select only 1):</b>					
Civil			Family Law		
<b>Contract</b> <input checked="" type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract:  <b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:	<b>Injury or Damage</b> <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <b>Malpractice</b> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability:  <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product:  <input type="checkbox"/> Other Injury or Damage:	<b>Real Property</b> <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property:  <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:	<b>Marriage Relationship</b> <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children  <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:	<b>Post-judgment Actions (non-Title IV-D)</b> <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other  <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order  <b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child:	
<b>Employment</b> <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:	<b>Other Civil</b> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property  <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:				
<b>Tax</b> <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<b>Probate &amp; Mental Health</b> <b>Probate/Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings  <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:				
<b>3. Indicate procedure or remedy, if applicable (may select more than 1):</b>					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
<b>4. Indicate damages sought (do not select if it is a family law case):</b>					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000					

# **EXHIBIT A-2**

FILED  
7/18/2017 10:03 AM  
Donna Kay McKinney  
Bexar County District Clerk  
Accepted By: Krystal Gonzalez

5 cit cml sac2

CAUSE NO. **2017CI13020**

CEDAR POINT CONDOMINIUMS,

Plaintiff,

V.

EVEREST INDEMNITY INSURANCE  
COMPANY, ENGLE MARTIN &  
ASSOCIATES, INC., EDWARD  
MARTIN SEWELL JR., ERIK JASKE,  
AND HARMON HAMANN.

Defendants.

IN THE JUDICIAL COURT OF

BEXAR COUNTY, TEXAS

225

DISTRICT COURT



**PLAINTIFF'S ORIGINAL PETITION, JURY DEMAND,  
AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Cedar Point Condominiums, ("Plaintiff"), and files **Plaintiff's Original Petition, Jury Demand, and Request for Disclosure**, complaining of Everest Indemnity Insurance Company (hereinafter referred to as "Everest Indemnity"), Engle Martin & Associates, Inc. (hereinafter referred to as "Engle Martin"), Edward Martin Sewell Jr. (hereinafter referred to as "Sewell"), Erik Jaske (hereinafter referred to as "Jaske"), and Harmon Hamann (hereinafter referred to as "Hamann") (or collectively "Defendants") and for cause of action. Plaintiff respectfully shows the following:

**DISCOVERY CONTROL PLAN**

1. Plaintiff intends to conduct discovery under Level 3, Texas Rules of Civil Procedure 190.4 and 169.

**PARTIES**

2. Plaintiff, Cedar Point Condominiums, is a condominium association for multiple condominiums located in Bexar County, Texas.

3. Defendant, Everest Indemnity Insurance Company, is a Delaware corporation that provides insurance underwriting services in the State of Texas. Plaintiff requests service of citation upon Everest Indemnity Insurance Company at the address listed with the Texas Department of Insurance: C/O Any Officer, 1209 Orange Street, Wilmington, Delaware 19801. Plaintiff requests service at this time.
4. Defendant, Engle Martin & Associates, Inc., is an independent insurance adjusting firm that does business in the State of Texas. Engle Martin may be served with citation at the address listed with the Texas Department of Insurance: 5565 Glenridge Connector, Suite 900, Atlanta, Georgia 30342. Plaintiff requests service at this time.
5. Defendant Edward Martin Sewell Jr. is an independent insurance adjuster who is duly authorized as an adjuster in the State of Texas through the Texas Department of Insurance. Sewell, who is a Texas resident, may be served with citation at the address listed with the Texas Department of Insurance: c/o Engle Martin & Associates, Inc., 17304 Preston Road, Suite 975, Dallas, Texas 75252-5650. Plaintiff requests service at this time.
6. Defendant Erik Jaske is an insurance adjuster who is duly authorized as an adjuster in the State of Texas through the Texas Department of Insurance. Jaske may be served with citation at the address listed with the Texas Department of Insurance: 1010 Jorie Blvd, Suite 140, Oakbrook, Illinois 60523. Plaintiff requests service at this time.
7. Defendant Harmon Hamann is an insurance agent who is duly authorized to sell property insurance through the Texas Department of Insurance. Hamann may be served with citation at: 1914 Alpine Mist, San Antonio, Texas 78258-7282. Plaintiff requests service at this time.



### JURISDICTION

8. The Court has jurisdiction over Everest Indemnity because this Defendant engages in the business of underwriting insurance in the State of Texas, and the causes of action arise out of Everest Indemnity's business activities in the State of Texas, including those in Bexar County, Texas, with reference to this specific case.
9. The Court has jurisdiction over Engle Martin as this company engages in the business of adjusting insurance claims in the State of Texas, and the causes of action arise out of its business activities in the State of Texas, with reference to this specific case.
10. The Court has jurisdiction over Sewell because this Defendant engages in the business of adjusting insurance claims in the State of Texas, and the causes of action arise out of this Defendant's business activities in the State of Texas, including those in Bexar County, Texas, with reference to this specific case.
11. The Court has jurisdiction over Jaske because this Defendant engages in the business of adjusting insurance claims in the State of Texas, and the causes of action arise out of this Defendant's business activities in the State of Texas, including those in Bexar County, Texas, with reference to this specific case.
12. The Court has jurisdiction over Hamann because this domestic Defendant engages in the business of selling property insurance in the State of Texas, and the causes of action arise out of this Defendant's business activities in the State of Texas, including those in Bexar County, Texas, with reference to this specific case.

### VENUE

13. Venue is proper in Bexar County, Texas because the insured properties are located in Bexar



County, Texas, and all or a substantial part of the events giving rise to this lawsuit occurred in County, Texas. TEX. CIV. PRAC. & REM. CODE § 15.032.

### FACTS

14. Plaintiff asserts claims for fraud, breach of contract, violations of sections 541 and 542 of the Texas Insurance Code, violations of the Texas DTPA, negligence, and gross negligence.
15. Plaintiff owns an Everest Indemnity commercial insurance policy, number CA3P004542151 ("the Policy"). At all relevant times, Plaintiff was the insured for buildings A through H located at what defendant Everest Indemnity labels as "14745 Babcock Road, San Antonio, Texas 78249."
16. Hamann personally worked with Plaintiff to sell and procure the policy in question. Plaintiff believed Plaintiff purchased a full coverage insurance policy. In fact, Plaintiff was very diligent in procuring coverage for the property itself, general liability, workers' compensation, crime, directors' and officers' liability, flood insurance for all residential buildings, and blanket umbrella coverage. Essentially, Plaintiff believed that it had "covered its bases." Prior to purchasing the policy, Plaintiff received a copy of the declarations page, but not the policy itself. As part of this sale, Hamann represented that the policy included coverage for wind and hail losses.
17. Unfortunately, through the claims process, Everest Indemnity, contrary to what Plaintiff believe it had purchased, denied the claim based on policy exclusions Plaintiff could not have known existed at the time the policy was sold by Hamann to Plaintiff.
18. Ultimately, based on wrongfully applied provisions in the Policy, Everest Indemnity has





refused substantive coverage which includes, but is not limited to, replacement of the storm damaged carports.

19. Specifically, the Policy sold included extremely limited coverage for outdoor properties.

20. Everest Indemnity stated in its partial denial letter of the claim that:

Further, the Haag investigation revealed minor hail damage to carport roofs.  
Please find the following policy language:



A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property, as used in this Coverage Part, means the type of property described in this decision, A.1., and limited in A.2. Property Not Covered, if a Limit Of Insurance is shown in the Declarations for that type of property.

a. Building, meaning the building or structure described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, outside of individual units, including outdoor fixtures;
- (3) Permanently installed:
  - (a) Machinery; and
  - (b) Equipment
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
  - (a) Fire-extinguishing equipment;
  - (b) Outdoor furniture;
  - (c) Floor coverings; and
  - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing, or laundering that are not contained within individual units;
- (5) If not covered by other insurance:
  - (a) Additions under construction, alterations and repairs to the building or structure;
  - (b) Materials, equipment, supplies, and temporary structures, on or within

100 feet of described premises, used for making additions, alterations or repairs to the building or structure; and

(6) Any of the following types of property contained within a unit, regardless of ownership, if your Condominium Association Agreement requires you to insure it:

- (a) Fixtures, improvements and alterations that are a part of the building or structure; and
- (b) Appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security, or housekeeping.



**Carports are not covered property as noted above.** Please note the following regarding outdoor property:

#### **E. Outdoor Property**

You may extend the insurance provided by this Coverage Form to apply to your outdoor fences, Radio, and television antennas (including satellite dishes), trees, shrubs, and plants (other than trees, shrubs or plants which are "Stock" or are part of a vegetated roof), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

**Carports are not listed as outdoor property nor is hail a named peril described above.**

**Unfortunately, per the above noted policy language, Everest Indemnity Insurance Company, must deny your claim for hail damage to carports for the expressly noted reasons above. Defendant's Partial Denial Letter, October 14, 2016.**

21. As a result of the above policy provisions, which were sold as part of the policy by Hamann.

Plaintiff did not receive any coverage under this claim for several carports located on the Property, which would have been covered but for the policy exclusions.

22. On or about April 12, 2016, the Properties sustained extensive damage resulting from a severe storm that passed through the Bexar County, Texas area.
23. In the aftermath of the wind and hailstorm, Plaintiff submitted a claim to Everest Indemnity against the Policy for damage to the Properties. Everest Indemnity assigned claim number 2000098353 to Plaintiff's claim.
24. Plaintiff asked Everest Indemnity to cover the cost of damage to the Properties pursuant to the Policy.
25. Everest Indemnity assigned adjustment of the claim to the independent adjusting firm Engle Martin & Associates, Inc. Engle Martin, Jaske, and/or Sewell inspected the Properties on or about September 2, 2016, and determined that buildings A, B, C, D, E, F, G, and the leasing office were storm damaged in the amount of \$21,788.32.
26. Sewell, Engle Martin, and/or Jaske agreed that there was covered damage to several different building elevations, and other collateral roofing components such as window beading, A/C condenser fins, and a skylight.
27. However, despite finding extensive damage to these collateral components, Sewell, Engle Martin, and/or Jaske allegedly found that there was no damage from a covered peril to the roof of the Properties.
28. Furthermore, according to a representative of the Plaintiff, Jaske got on only 1 of the 8 buildings on the property.
29. Sewell, Jaske, and/or Engle Martin had a vested interest in undervaluing the claims





assigned to them by Everest Indemnity in order to maintain their employment. The disparity in the number of damaged items in their report compared to that of Plaintiff's is evidence of fraud on the part of Sewell, Jaske, and Engle Martin. The valuation of damages that were included in Sewell, Jaske, and/or Engle Martin's report compared to Plaintiff's is also evidence of fraud on the part of Sewell, Jaske, and Engle Martin.



30. Furthermore, Sewell, Jaske, and Engle Martin made misrepresentations as to the amount of damage Plaintiff's Properties sustained, as well as misrepresentations regarding how much it would cost to repair the damage to Plaintiff's Properties.
31. Everest Indemnity and/or Engle Martin sent out an engineering company, Haag Engineering Company, ("Haag"), to inspect the Properties on August 10, 2016. Haag concluded that the carport canopies sustained minor damage due to hailstone impact, which was not reported during Sewell, Jaske, and Engle Martin's initial inspection.
32. Everest Indemnity, through its agents, namely Sewell, Jaske, and Engle Martin, conducted a substandard and improper inspection and adjustment of the Properties, which yielded grossly inaccurate and unrealistic assessments of the cause, extent, and dollar amount of damage to the Properties. Specifically, Everest Indemnity and/or the agents it hired, namely Sewell, Jaske, and Engle Martin determined that:
  - a. According to Everest Indemnity and/or its agents, the Property denoted as **Building A/Building 1** sustained \$3,768.16 in damage to the front elevation, left elevation, a window screen, and window glazing beading. Plaintiff estimates the replacement cost to repair damage to this Property is currently \$68,894.76. This damage includes, but is not limited to the roof


and roofing components.

- b. According to Everest Indemnity and/or its agents, the Property denoted as **Building B/Building 2** sustained \$3,630.40 in damage to the front elevation, left elevation, a window screen, and window glazing beading. Plaintiff estimates the replacement cost to repair damage to this Property is currently \$82,704.30. This damage includes, but is not limited to the roof and roofing components.
- c. According to Everest Indemnity and/or its agents, the Property denoted as **Building C/Building 3** sustained \$3,572.28 in damage to the front elevation, left elevation, a window screen, and window glazing beading. Plaintiff estimates the replacement cost to repair damage to this Property is currently \$82,685.35. This damage includes, but is not limited to the roof and roofing components.
- d. According to Everest Indemnity and/or its agents, the Property denoted as **Building D/Building 4** sustained \$2,656.83 in damage to the front elevation, right elevation, a window screen, and window glazing beading. Plaintiff estimates the replacement cost to repair damage to this Property is currently \$130,214.00. This damage includes, but is not limited to the roof and roofing components.
- e. According to Everest Indemnity and/or its agents, the Property denoted as **Building E/Building 5** sustained \$1,256.99 in damage to the front elevation, a window screen, and window glazing bead. Plaintiff estimates






the replacement cost to repair damage to this Property is currently \$87,564.10. This damage includes, but is not limited to the roof and roofing components.

- 
- f. According to Everest Indemnity and/or its agents, the Property denoted as **Building F/Building 6** sustained \$3,603.14 in damage to the roof skylight, right elevation, rear elevation, a window screen, and window glazing beading. Plaintiff estimates the replacement cost to repair damage to this Property is currently \$87,186.62. This damage includes, but is not limited to the roof and roofing components.
- g. According to Everest Indemnity and/or its agents, the Property denoted as **Building G/Building 7** sustained \$3,061.59 in damage to the right elevation, rear elevation, a window screen, and window glazing bead. Plaintiff estimates the replacement cost to repair damage to this Property is currently \$43,036.99. This damage includes, but is not limited to the roof and roofing components.
- h. The Property denoted as **Leasing Office/Building 8** sustained \$92.39 in damage to the left elevation only. Plaintiff estimates the replacement cost to repair damage to this Property is currently \$105,503.79. This damage includes, but is not limited to the roof and roofing components.

33. To date, Plaintiff has received \$11,788.32 for damage to Plaintiff's Properties. The collective damage to Plaintiff's Properties is currently estimated at \$781,597.53.
34. Since due demand was made on February 17, 2017, Defendants have not communicated

that any future settlements or payments would be forthcoming to pay for the entire loss covered under the Policy, nor did it provide any explanation for failing to settle Plaintiff's claim properly.

- 
35. As stated above, Defendants failed to assess the claim thoroughly. Based upon Defendants' grossly unreasonable, intentional, and reckless failure to investigate and adjust the claim properly, Everest Indemnity failed to provide full coverage due under the Policy.
36. As a result of Everest Indemnity's failure to provide full coverage, along with Everest Indemnity's delay tactics to avoid reasonable payment to Plaintiff, Plaintiff has suffered damages.
37. Everest Indemnity failed to perform its contractual duties to Plaintiff under the terms of the Policy. Specifically, Everest Indemnity refused to pay the full proceeds of the Policy, although due demand was made for an amount sufficient to cover repairs to the damaged Properties, and all conditions precedent to recover upon the Policy were accomplished by Plaintiff.
38. Defendants' misrepresentations, unreasonable delays, and continued denials constitute a breach of the statutory obligations under Chapters 541 and 542 of the Texas Insurance Code. Thus, the breach of the statutory duties constitutes the foundation of a breach of the insurance contract between Everest Indemnity and Plaintiff.
39. Defendants' conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE §541.060(a)(1). Defendants have not attempted to settle Plaintiff's claim in a fair manner, even though Defendants were aware of their liability to Plaintiff under the Policy. Specifically, Defendants have failed to timely pay Plaintiff's

coverage due under the Policy.

40. Defendants' conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE §541.060(a)(2)(A). Defendants failed to provide Plaintiff a reasonable explanation for not making the full payment under the terms of the Policy.
41. Defendants' conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE §541.060(a)(4). Defendants refused to provide full coverage due to Plaintiff under the terms of the Policy. Specifically, Everest Indemnity through its agents, servants, and representatives, namely Sewell, Jaske, and Engle Martin, performed an outcome-oriented investigation of Plaintiff's claim, which resulted in a biased, unfair, and inequitable evaluation of Plaintiff's losses on the Properties.
42. Defendants' conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE §542.055. Defendants failed to reasonably accept or deny Plaintiff's full claim within the statutorily mandated time after receiving all necessary information.
43. Defendants' conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE §542.056. Defendants failed to meet their obligations under the Texas Insurance Code regarding timely payment of the claim. Specifically, Defendants have delayed payment of Plaintiff's claim longer than allowed, and Plaintiff has not received full payment for the claim.
44. Defendants' wrongful acts and omissions forced Plaintiff to retain the professional services of the attorneys and law firm representing Plaintiff with respect to these causes of action.





**CAUSES OF ACTION AGAINST DEFENDANT**  
**EVEREST INDEMNITY INSURANCE COMPANY**

**BREACH OF CONTRACT**



45. All allegations above are incorporated herein.
46. Everest Indemnity is liable to Plaintiff for intentional violations of the Texas Insurance Code, and intentional breach of the common law duty of good faith and fair dealing. It follows, then, that the breach of the statutory duties constitutes the foundation of an intentional breach of the insurance contract between Everest Indemnity and Plaintiff.
47. Everest Indemnity's failure and/or refusal to pay adequate coverage as obligated under the terms of the Policy, and under the laws of the State of Texas, constitutes a breach of the insurance contract with Plaintiff.

**NONCOMPLIANCE WITH THE TEXAS INSURANCE CODE:  
UNFAIR SETTLEMENT PRACTICES**

48. All allegations above are incorporated herein.
49. Everest Indemnity's conduct constitutes multiple violations of the Texas Insurance Code, Unfair Settlement Practices. TEX. INS. CODE §541.060(a). All violations under this article are actionable by TEX. INS. CODE §541.151.
50. Everest Indemnity's unfair settlement practice of misrepresenting to Plaintiff material facts relating to coverage constitutes an unfair method of competition and a deceptive act or practice in the business of insurance. TEX. INS. CODE §541.060(a)(1).
51. Everest Indemnity's unfair settlement practice of failing to attempt in good faith to make a prompt, fair, and equitable settlement of the claim, even though liability under the Policy

was reasonably clear, constitutes an unfair method of competition and a deceptive act or practice in the business of insurance. TEX. INS. CODE §541.060(a)(2)(A).

52. Everest Indemnity's unfair settlement practice of failing to provide Plaintiff a prompt and reasonable explanation of the basis in the Policy, in relation to the facts or applicable law, for underpayment of the claim, constitutes an unfair method of competition and a deceptive act or practice in the business of insurance. TEX. INS. CODE §541.060(a)(3).

53. Everest Indemnity's unfair settlement practice of failing within a reasonable time to affirm or deny coverage of the claim to Plaintiff constitutes an unfair method of competition and a deceptive act or practice in the business of insurance. TEX. INS. CODE §541.060(a)(4).

54. Everest Indemnity's unfair settlement practice of refusing to pay Plaintiff's claim without conducting a reasonable investigation constitutes an unfair method of competition and a deceptive act or practice in the business of insurance. TEX. INS. CODE §541.060(a)(7).

**NONCOMPLIANCE WITH THE TEXAS INSURANCE CODE:  
THE PROMPT PAYMENT OF CLAIMS**

55. All allegations above are incorporated herein.
56. Everest Indemnity's conduct constitutes multiple violations of the Texas Insurance Code, Prompt Payment of Claims. All violations made under this article are actionable by TEX. INS. CODE §542.060.
57. Everest Indemnity's failure to notify Plaintiff in writing of its acceptance or rejection of the full claim within the applicable time constraints constitutes a non-prompt payment in violation of TEX. INS. CODE §542.056.
58. Everest Indemnity's delay in paying Plaintiff's claim following receipt of all items, statements, and forms reasonably requested and required, for longer than the amount of



time provided, constitutes a non-prompt payment of the claim. TEX. INS. CODE §542.058.

**BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING**

59. All allegations above are incorporated herein.
60. Everest Indemnity's conduct constitutes a breach of the common law duty of good faith and fair dealing owed to an insured in insurance contracts.
61. Everest Indemnity's failure to adequately and reasonably investigate and evaluate Plaintiff's claim, although, at that time, Everest Indemnity knew or should have known by the exercise of reasonable diligence that liability was reasonably clear, constitutes a breach of the duty of good faith and fair dealing.

**DTPA VIOLATIONS**

62. All allegations above are incorporated herein.
63. Everest Indemnity's conduct constitutes multiple violations of the Texas Deceptive Trade Practices Act ("DTPA"), TEX. BUS. & COM. CODE 17.41-63. Plaintiff is a consumer of goods and services provided by Everest Indemnity pursuant to the DTPA. Plaintiff has met all conditions precedent to bringing this cause of action against Everest Indemnity. Specifically, Everest Indemnity's violations of the DTPA include, without limitation, the following matters:
- A. By its acts, omissions, failures, and conduct, Everest Indemnity has violated sections 17.46(b)(2), (5), (7), (9), (12), (20) and (24) of the DTPA. Everest Indemnity's violations include without limitation, (1) unreasonable delays in the investigation, adjustment, and resolution of Plaintiff's claim, (2) failure to give

Plaintiff the benefit of the doubt, and (3) failure to pay for the proper repair of Plaintiff's Properties when liability has become reasonably clear, which gives Plaintiff the right to recover under section 17.46(b)(2).

- B. Everest Indemnity represented to Plaintiff that the Policy and Everest Indemnity's adjusting and investigative services had characteristics or benefits that they did not possess, which gives Plaintiff the right to recover under section 17.46(b)(5) of the DTPA.
- C. Everest Indemnity also represented to Plaintiff that the Policy and Everest Indemnity's adjusting services were of a particular standard, quality, or grade when they were of another, in violation of section 17.46(b)(7) of the DTPA.
- D. Furthermore, Everest Indemnity advertised the Policy and adjusting services with the intent not to sell them as advertised, in violation of section 17.46(b)(9) of the DTPA.
- E. Everest Indemnity breached an express warranty that the damages caused by wind and hail would be covered under the Policy. This breach entitles Plaintiff to recover under sections 17.46(b)(12) and (20) and 17.50(a)(2) of the DTPA.
- F. Everest Indemnity's actions are unconscionable in that Everest Indemnity took advantage of Plaintiff's lack of knowledge, ability, and experience to a grossly unfair degree. Everest Indemnity's unconscionable conduct gives Plaintiff a right to relief under section 17.50(a)(3) of the DTPA; and



G. Everest Indemnity's conduct, acts, omissions, and failures, as described in this petition, are unfair practices in the business of insurance in violation of section 17.50(a)(4) of the DTPA.

64. Each of the above-described acts, omissions, and failures of Everest Indemnity is a producing cause of Plaintiff's damages. All of the above-described acts, omissions, and failures were committed "knowingly" and "intentionally," as defined by the Texas Deceptive Trade Practices Act.



#### **FRAUD**

65. All allegations above are incorporated herein.
66. Everest Indemnity is liable to Plaintiff for common law fraud.
67. Each and every misrepresentation described above concerned material facts that absent such representations, Plaintiff would not have acted as Plaintiff did, and Everest Indemnity knew its representations were false or made recklessly without any knowledge of their truth as a positive assertion.
68. Everest Indemnity made the statements intending that Plaintiff act upon them. Plaintiff then acted in reliance upon the statements, thereby causing Plaintiff to suffer injury constituting common law fraud.

#### **CAUSES OF ACTION AGAINST DEFENDANT EDWARD MARTIN SEWELL JR., ERIK JASKE, AND ENGLE MARTIN AND ASSOCIATES, INC.**

##### **NONCOMPLIANCE WITH THE TEXAS INSURANCE CODE: UNFAIR SETTLEMENT PRACTICES**

69. All allegations above are incorporated herein.



70. Sewell, Jaske, and Engle Martin's conduct constitutes multiple violations of the Texas Insurance Code, Unfair Claim Settlement Practices Act. TEX. INS. CODE §541.060(a).
71. Sewell and Jaske are individually liable for their unfair and deceptive acts, irrespective of the fact that they were acting on behalf of Everest Indemnity because Sewell and Jaske are defined as a "person" by TEX. INS. CODE §541.002(2).
72. Sewell, Jaske, and Engle Martin knowingly underestimated the amount of damage to the Properties. As such, Sewell, Jaske, and Engle Martin failed to adopt and implement reasonable standards for the investigation of the claim arising under the Policy. TEX. INS. CODE §542.003(3).
73. Furthermore, Sewell, Jaske, and Engle Martin did not attempt in good faith to effect a fair, prompt, and equitable settlement of the claim. TEX. INS. CODE §542.003(4).
74. Sewell, Jaske, and Engle Martin's unfair settlement practice of failing to provide Plaintiff a prompt and reasonable explanation of the basis in the Policy, in relation to the facts or applicable law, for underpayment of the claim, also constitutes an unfair method of competition and an unfair and deceptive act or practice. TEX. INS. CODE §541.060(a)(3).
75. Sewell, Jaske, and Engle Martin's unfair settlement practice of failing to attempt in good faith to make a prompt, fair, and equitable settlement of the claim, even though liability under the Policy was reasonably clear, constitutes an unfair method of competition and a deceptive act or practice in the business of insurance. TEX. INS. CODE §541.060(a)(2)(A).

#### **DTPA VIOLATIONS**

76. All allegations above are incorporated herein.

77. Sewell, Jaske, and Engle Martin's conduct constitutes multiple violations of the Texas Deceptive Trade Practices Act ("DTPA"), TEX. BUS. & COM. CODE 17.41-63. Plaintiff is a consumer of goods and services provided by Sewell, Jaske, and Engle Martin pursuant to the DTPA. Plaintiff has met all conditions precedent to bringing this cause of action against Sewell, Jaske, and Engle Martin. Specifically, Sewell, Jaske, and Engle Martin's violations of the DTPA include the following matters:



- A. By this Defendant's acts, omissions, failures, and conduct, Sewell, Jaske, and Engle Martin have violated sections 17.46(b)(2), (5), and (7) of the DTPA. Sewell, Jaske, and Engle Martin's violations include, (1) failure to give Plaintiff the benefit of the doubt, and (2) failure to write up an estimate reflecting the proper repair of Plaintiff's Properties when liability has become reasonably clear, which gives Plaintiff the right to recover under section 17.46(b)(2).
- B. Sewell, Jaske, and Engle Martin represented to Plaintiff that the Policy and their adjusting and investigative services had characteristics or benefits they did not possess, which gives Plaintiff the right to recover under section 17.46(b)(5) of the DTPA.
- C. Sewell, Jaske, and Engle Martin represented to Plaintiff that the Policy and their adjusting services were of a particular standard, quality, or grade when they were of another, in violation of section 17.46(b)(7) of the DTPA.
- D. Sewell, Jaske, and Engle Martin's actions are unconscionable in that Sewell, Jaske, and Engle Martin took advantage of Plaintiff's lack of knowledge, ability, and



experience to a grossly unfair degree. Sewell's unconscionable conduct gives Plaintiff a right to relief under section 17.50(a)(3) of the DTPA; and

E. Sewell, Jaske, and Engle Martin's conduct, acts, omissions, and failures, as described in this petition, are unfair practices in the business of insurance in violation of section 17.50(a)(4) of the DTPA.



78. Each of Sewell, Jaske, and Engle Martin's above-described acts, omissions, and failures is a producing cause of Plaintiff's damages. All acts, omissions, and failures were committed "knowingly" and "intentionally" by Sewell, as defined by the Texas Deceptive Trade Practices Act. TEX. BUS. & COM. CODE 17.45.

#### **FRAUD**

79. All allegations above are incorporated herein.

80. Everest Indemnity assigned or hired Sewell, Jaske, and Engle Martin to adjust the claim.

- a. Sewell, Jaske, and Engle Martin had a vested interest in undervaluing the claims assigned to them by Everest Indemnity in order to maintain their employment. The disparity in the number of damaged items in their report compared to that of Plaintiff's is evidence of fraud on the part of Sewell, Jaske, and Engle Martin. The valuation of damages that were included in Sewell, Jaske, and Engle Martin's report compared to Plaintiff's is also evidence of fraud on the part of Sewell, Jaske, and Engle Martin.
- b. Sewell, Jaske, and Engle Martin made misrepresentations as to the amount of damage Plaintiff's Properties sustained as well as misrepresentations regarding how much it would cost to repair the damage to Plaintiff's Properties.

### NEGLIGENCE

81. All allegations above are incorporated herein.
82. Sewell, Jaske, and Engle Martin were negligent in their actions with regard to their adjustment of Plaintiff's claim and violated the standard of care for an insurance adjuster licensed in the state of Texas. Those failures include one or more of the following acts or omissions:
- a. Failure to conduct a reasonable inspection;
  - b. Failure to include covered damage that would be discovered as a result of reasonable inspection;
  - c. Failure to identify the proper cause and scope of the damage to Plaintiff's Properties;
  - d. Failure to identify the cost of proper repairs to Plaintiff's Properties; and
  - e. Failure to communicate to Plaintiff the reasons for specific determinations made regarding the inclusion or exclusion of damage to Plaintiff's Properties.
83. Sewell, Jaske, and Engle Martin's acts and/or omissions constitute negligence. Their conduct was therefore a proximate cause of the damages sustained by Plaintiff.
84. At all relevant times, Sewell, Jaske, and Engle Martin were agents or employees of Defendant Everest Indemnity.
85. Sewell, Jaske, and Engle Martin's unreasonable inspection was performed within the course and scope of their duties with Defendant Everest Indemnity. Therefore, Everest



Indemnity is also liable for the negligence of Sewell, Jaske, and Engle Martin through the doctrine of respondeat superior.

#### **GROSS NEGLIGENCE**



86. All allegations above are incorporated herein.
87. Sewell, Jaske, and Engle Martin's actions or omissions constitute gross negligence as defined in TEX. CIV. P. & REM. CODE § 41.001 (11)(A) and (B):
- a. Sewell, Jaske, and Engle Martin's actions, when viewed objectively from the standpoint of the actor at the time of their occurrence involves an extreme degree of risk, considering the probability and magnitude of potential harm to Plaintiff; and
  - b. Sewell, Jaske, and Engle Martin had actual, subjective awareness of the risk involved, but nevertheless, proceeded with conscious indifference to the rights, safety, and/or welfare of Plaintiff.
88. Sewell, Jaske, and Engle Martin intentionally misrepresented the scope and amount of damages on the estimate prepared for Plaintiff's Properties on behalf of Everest Indemnity. Their estimate was to such an extreme degree below what another licensed adjuster would have done in this situation; it was also in complete disregard for the risk and harm Plaintiff would suffer if the actual damages to the Properties were allowed to persist unrepaired.

#### **CAUSES OF ACTION AGAINST DEFENDANT** **HARMON HAMANN**

#### **DTPA VIOLATIONS**

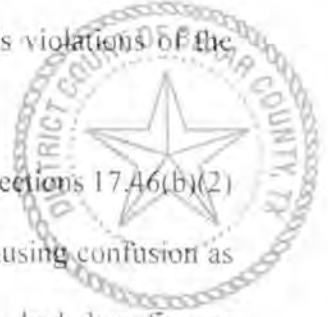
89. All allegations above are incorporated herein.



90. Hamann's conduct constitutes multiple violations of the Texas Deceptive Trade Practices Act ("DTPA"), TEX. BUS. & COM. CODE 17.46. Specifically, his violations of the DTPA include, without limitation, the following matters:

- F. By his acts, omissions, failures, and conduct, Hamann violated sections 17.46(b)(2) and 17.46(b)(5) of the DTPA. Hamann's violations include causing confusion as to the Policy benefits, and representing that the Policy had benefits or characteristics that it did not possess. Hamann's violations also include the failure to discuss with Plaintiff material exclusions or limitations.
- G. Hamann breached an express warranty during the sale of the Policy that the damages caused by wind and hail would be covered under the Policy, when they were not. This breach entitles Plaintiff to recover under sections 17.46(b)(12), 17.46(b)(20), and 17.50(a)(2) of the DTPA.
- H. Hamann's conduct, acts, omissions, and failures are unfair practices in the business of insurance in violation of section 17.50(a)(4) of the DTPA.
- I. Hamann's actions are unconscionable in that Hamann took advantage of Plaintiff's lack of knowledge, ability, and experience to a grossly unfair degree. Hamann's unconscionable conduct gives Plaintiff a right to relief under section 17.50(a)(3) of the DTPA; and

91. Each of Hamann's above-described acts, omissions, and failures is a producing cause of Plaintiff's damages. All of the above-described acts, omissions, and failures were committed "knowingly" and "intentionally" by Hamann, as defined by the Texas Deceptive Trade Practices Act. TEX. BUS. & COM. CODE 17.45.



### **FRAUD**

92. All allegations above are incorporated herein.
93. Hamann is liable to Plaintiff for common law fraud.
94. Each and every representation described above concerned material facts that absent such representations, Plaintiff would not have acted as Plaintiff did, and Hamann knew the representations were false or made recklessly without any knowledge of their truth as a positive assertion.
95. Hamann made these statements intending that Plaintiff act upon them. Plaintiff then acted in reliance upon the statements, thereby causing Plaintiff to suffer injury constituting common law fraud. Specifically, Hamann represented to Plaintiff during the sale of the Policy that the Policy had benefits or characteristics it did not possess. Plaintiff relied on these statements, and as a result, has suffered damages to Plaintiff's Property when Plaintiff's claim was denied for lack of coverage.



### **KNOWLEDGE**

96. Defendants made each of the acts described above, together and singularly, "knowingly," as defined in the Texas Insurance Code, and each was a producing cause of Plaintiff's damages described herein.

### **WAIVER AND ESTOPPEL**

97. Defendants waived and are estopped from asserting any coverage defenses, conditions, exclusions, or exceptions to coverage not contained in any reservation of rights letter to Plaintiff.



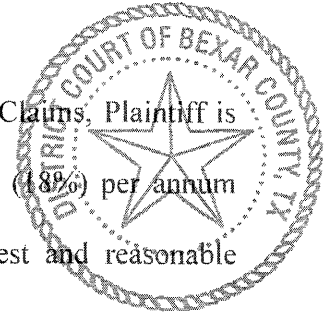
### DAMAGES

98. Since the claim was made, Everest Indemnity has not properly compensated Plaintiff for all necessary repairs required to be made, which are covered under the Policy. This has caused undue hardship and burden to Plaintiff. These damages are a direct result of Defendants' mishandling of Plaintiff's claim in violation of the laws set forth above.
99. Defendants made the above and other false representations to Plaintiff, either knowingly or recklessly, as a positive assertion, without knowledge of the truth. Defendants made these false misrepresentations with the intent that Plaintiff act in accordance with the misrepresentations. Plaintiff then relied on these misrepresentations, including but not limited to those regarding coverage and the cause and scope of damage. Plaintiff suffered damages as a result.
100. Plaintiff would show that all of the aforementioned acts, taken together or singularly, constitute the producing causes of damages sustained. The acts, omissions, failures, and conduct of Defendants have caused Plaintiff's damages, which include, without limitation, costs for all necessary repairs required to be made to Plaintiff's Properties, and any investigative and engineering fees incurred to date.
101. For breach of contract, Plaintiff is entitled to regain the benefit of Plaintiff's bargain, which is the amount of Plaintiff's claim, consequential damages, together with attorney's fees.
102. The damage to Plaintiff's Properties is currently estimated at \$781,597.53.
103. For noncompliance with the DTPA and Texas Insurance Code, Unfair Settlement Practices, Plaintiff is entitled to actual damages, which include the loss of the benefits owed pursuant to the Policy, court costs, and attorney's fees. For knowing and intentional conduct of the



acts described above, Plaintiff asks for three (3) times Plaintiff's actual damages. TEX. INS. CODE §541.152 and TEX. BUS. & COM. CODE 17.50(B)(1).

104. For noncompliance with Texas Insurance Code, Prompt Payment of Claims, Plaintiff is entitled to the amount of Plaintiff's claim, plus an eighteen percent (18%) per annum penalty on that claim, as damages, as well as pre-judgment interest and reasonable attorney's fees. TEX. INS. CODE §542.060.
105. For breach of the common law duty of good faith and fair dealing, Plaintiff is entitled to compensatory damages, including all forms of loss resulting from Defendants' breach of duty, such as additional costs, economic hardship, losses due to nonpayment of money Everest Indemnity owed, and exemplary damages.
106. Defendants' breach of the common law duty of good faith and fair dealing was committed intentionally, with a conscious indifference to Plaintiff's rights and welfare, and with "malice," as that term is defined in Chapter 41 of the Texas Civil Practices and Remedies Code. These violations are the type of conduct which the State of Texas protects its citizens against by the imposition of exemplary damages. Therefore, Plaintiff seeks the recovery of exemplary damages in an amount determined by the finder of fact sufficient to punish Defendants for their wrongful conduct and to set an example to deter Defendants and others from committing similar acts in the future.
107. For fraud, Plaintiff is entitled to recover actual and exemplary damages for knowingly fraudulent and malicious representations, along with attorney's fees, interest, and court costs.



108. For the prosecution and collection of this claim, Plaintiff has been compelled to engage the services of the attorneys subscribed to this pleading. Therefore, under Chapter 38 of the Texas Civil Practices and Remedies Code, sections 541 and 542 of the Texas Insurance Code, and section 17.50 of the DTPA, Plaintiff is entitled to recover a sum for the reasonable and necessary services of Plaintiff's attorneys in the preparation and trial of this action, including any appeals to the Court of Appeals and/or the Supreme Court of Texas.
109. As required by Rule 47(b) of the Texas Rules of Civil Procedure, Plaintiff's counsel states that the damages sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c)(5) of the Texas Rules of Civil Procedure, Plaintiff's counsel states that Plaintiff seeks only monetary relief of no less than \$1,000,000.00. A jury will ultimately determine the monetary relief actually awarded, however. Plaintiff also seeks pre-judgment and post-judgment interest at the highest legal rate.

#### **REQUESTS FOR DISCLOSURE**

110. Under Texas Rules of Civil Procedure 190 and 194, Plaintiff requests that Defendants disclose, within fifty (50) days from the date this request is served, the information or material described in Rules 190.2(b)(6) and 194.2.

#### **JURY DEMAND**

111. Plaintiff hereby requests a jury trial for all causes of action alleged herein, tried before a jury consisting of citizens residing in Bexar County, Texas. Plaintiff hereby tenders the appropriate jury fee.

# PRAYER

Plaintiff prays that Defendants, Everest Indemnity Insurance Company, Engle Martin & Associates, Inc., Erik Jaske, Harmon Hamann, and Edward Martin Sewell Jr., be cited and served to appear, and that upon trial hereof, Plaintiff, Cedar Point Condominiums, has and recovers from Defendants, Everest Indemnity Insurance Company, Engle Martin & Associates, Inc., Erik Jaske, Harmon Hamann, and Edward Martin Sewell Jr., such sums as would reasonably and justly compensate Plaintiff in accordance with the rules of law and procedure, as to actual, consequential, and treble damages under the Texas Insurance Code and Texas Deceptive Trade Practices Act, and all punitive, additional, and exemplary damages, as may be found. In addition, Plaintiff requests the award of attorney's fees for the trial and any appeal of this case, for all costs of Court expended on Plaintiff's behalf, for pre-judgment and post-judgment interest as allowed by law; and for any other and further relief, at law or in equity, to which Plaintiff, Cedar Point Condominiums, may show Plaintiff is justly entitled.

Respectfully submitted,

CHAD T WILSON LAW FIRM PLLC

By: /s/ Chad T. Wilson

Chad T. Wilson  
 Bar No. 24079587  
 Kimberly N. Blum  
 Bar No. 24092148  
 455 E. Medical Center Blvd, Suite 555  
 Webster, Texas 77598  
 Telephone: (832) 415-1432  
 Facsimile: (281) 940-2137  
[eservice@cwilsonlaw.com](mailto:eservice@cwilsonlaw.com)  
[cwilson@cwilsonlaw.com](mailto:cwilson@cwilsonlaw.com)  
[kblum@cwilsonlaw.com](mailto:kblum@cwilsonlaw.com)

ATTORNEYS FOR PLAINTIFF



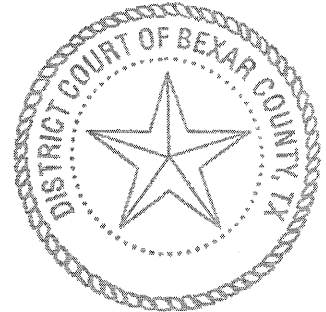
# **EXHIBIT A-3**



**CHAD T. WILSON**  
— LAW FIRM, PLLC —

July 17, 2017

Ms. Donna Kay McKinney  
Bexar County District Clerk  
Paul Elizondo Tower  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205-3411



**RE: Cause No.:** \_\_\_\_\_; *Frank Cipolla vs. Safeco Insurance Company of Indiana and Charles Paul Winn, In the \_\_\_\_\_ District Court, Tarrant County, Texas*

Dear Ms. McKinney:

Please prepare a civil process citation for the following and have each served by Certified Mail Return Receipt Requested through the court:

1. Everest Indemnity Insurance Company  
C/O Any Officer  
1209 Orange Street  
Wilmington, Delaware 19801
2. Engle Martin & Associates, Inc.  
5565 Glenridge Connector  
Suite 900  
Atlanta, Georgia 30342
3. Edward Martin Sewell Jr.  
C/O Engle Martin & Associates, Inc.  
17304 Preston Road  
Suite 975  
Dallas, Texas 75252-5650
4. Erik Jaske  
1010 Jorie Blvd, Suite 140  
Oakbrook, Illinois 60523
5. Harmon Hamann  
1914 Alpine Mist  
San Antonio, Texas 78258-7282



**CHAD T. WILSON**  
— LAW FIRM, PLLC —

I understand that there is a charge for this service and an additional charge to attach a copy of the Original Petition to the citation will be charged. If any additional information is needed, feel free to contact this office. Thank you for your cooperation and assistance.



Sincerely yours,

Chad T. Wilson  
Texas State Bar No. 24079587  
Chad T Wilson Law Firm PLLC  
Office: (832) 415-1432  
Fax: (281) 940-2137

**Houston:**

455 East Medical Center Boulevard, Suite 555  
Webster, Texas 77598  
Office: 832-415-1432 Fax: 281-940-2137

**Denver:**

1001 Bannock Street, Suite 239  
Denver, Colorado 80204  
Office: 303-495-3999





# **EXHIBIT A-4**

CERTIFIED MAIL #70160600000042384049



2017CI13020 S00002

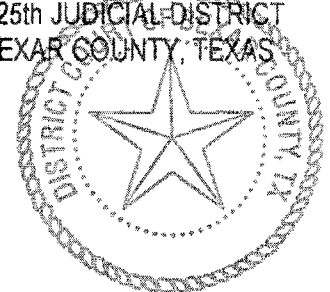
Case Number: 2017-CI-13020

**CEDAR POINT CONDOMINIUMS**

vs.

**EVEREST INDEMNITY INSURANCE COMPANY ET**

(Note: Attached document may contain additional litigants).

**CITATION**
 IN THE DISTRICT COURT  
 225th JUDICIAL DISTRICT  
 BEXAR COUNTY, TEXAS
**"THE STATE OF TEXAS"****DIRECTED TO:** ENGLE MARTIN & ASSOCIATES INC
 5565 GLENRIDGE CONNECTOR 900  
 ATANTA GA 30342

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE, a default judgment may be taken against you." Said CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE was filed on the 18th day of July, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 19TH DAY OF July A.D., 2017.

 CHAD T WILSON  
 ATTORNEY FOR PLAINTIFF  
 455 EAST MEDICAL CENTER BLVD 555  
 WEBSTER, TX 77598

 Donna Kay McKinney  
 Bexar County District Clerk  
 101 W. Nueva, Suite 217  
 San Antonio, Texas 78205
By: *Lilyana Esquivel*, Deputy
 CEDAR POINT CONDOMINIUMS  
 vs  
 EVEREST INDEMNITY INSURANCE COMPANY ET
**Officer's Return**
 Case Number: 2017-CI-13020  
 Court: 225th Judicial District Court

Came to hand on the 19th day of July 2017, A.D., at 1:46 o'clock P.M. and EXECUTED (NOT EXECUTED) by CERTIFIED MAIL, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by delivering to: \_\_\_\_\_ at 5565 GLENRIDGE CONNECTOR 900 ATANTA GA 30342 a true copy of this Citation, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE.

Cause of failure to execute this Citation is \_\_\_\_\_

 Donna Kay McKinney  
 Clerk of the District Courts of  
 Bexar County, TX  
 By: *Lilyana Esquivel*, Deputy

# **EXHIBIT A-5**

CERTIFIED MAIL #70160600000042384032



2017CI13020 500001

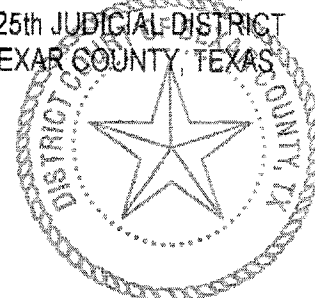
Case Number: 2017-CI-13020

**CEDAR POINT CONDOMINIUMS**

vs.

**EVEREST INDEMNITY INSURANCE COMPANY ET**

(Note: Attached document may contain additional litigants).

**CITATION**IN THE DISTRICT COURT  
225th JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS**"THE STATE OF TEXAS"****DIRECTED TO:** EVEREST INDEMNITY INSURANCE COMPANY  
C/O ANY OFFICER1209 ORANGE ST  
WILMINGTON DE 19801-1120

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE, a default judgment may be taken against you." Said CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE was filed on the 18th day of July, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 19TH DAY OF July A.D., 2017.

CHAD T WILSON  
ATTORNEY FOR PLAINTIFF  
455 EAST MEDICAL CENTER BLVD 555  
WEBSTER, TX 77598Donna Kay McKinney  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205By: *Lilyana Esquivel*, Deputy

Mo 7/19/17

CEDAR POINT CONDOMINIUMS  
vs  
EVEREST INDEMNITY INSURANCE COMPANY ET**Officer's Return**Case Number: 2017-CI-13020  
Court: 225th Judicial District Court

Came to hand on the 19th day of July 2017, A.D., at 1:42 o'clock P.M. and EXECUTED (NOT EXECUTED) by CERTIFIED MAIL, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by delivering to: \_\_\_\_\_ at 1209 ORANGE ST WILMINGTON DE 19801-1120 a true copy of this Citation, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE.

Cause of failure to execute this Citation is \_\_\_\_\_

Donna Kay McKinney  
Clerk of the District Courts of  
Bexar County, TX  
By: *Lilyana Esquivel*, Deputy



# **EXHIBIT A-6**

CERTIFIED MAIL #7016060000042384056



2017CI13020 500003

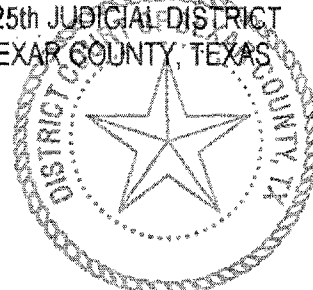
Case Number: 2017-CI-13020

**CEDAR POINT CONDOMINIUMS**

vs.

**EVEREST INDEMNITY INSURANCE COMPANY ET**

(Note: Attached document may contain additional litigants).

**CITATION**IN THE DISTRICT COURT  
225th JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS**"THE STATE OF TEXAS"****DIRECTED TO:** EDWARD MARTIN SEWELL JR  
C/O ENGLE MARTIN & ASSOCIATES INC17304 PRESTON RD 975  
DALLAS TX 78252

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE, a default judgment may be taken against you." Said CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE was filed on the 18th day of July, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 19TH DAY OF July A.D., 2017.

CHAD T WILSON  
ATTORNEY FOR PLAINTIFF  
455 EAST MEDICAL CENTER BLVD 555  
WEBSTER, TX 77598Donna Kay McKinney  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: Lilyana Esquivel, Deputy

m/o 7/19/17

CEDAR POINT CONDOMINIUMS  
vs  
EVEREST INDEMNITY INSURANCE COMPANY ET**Officer's Return**Case Number: 2017-CI-13020  
Court: 225th Judicial District Court

Came to hand on the 19th day of July 2017, A.D., at 1:48 o'clock P.M. and EXECUTED (NOT EXECUTED) by CERTIFIED MAIL, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by delivering to: \_\_\_\_\_ at 17304 PRESTON RD 975 DALLAS TX 78252 a true copy of this Citation, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE.

Cause of failure to execute this Citation is \_\_\_\_\_.

Donna Kay McKinney  
Clerk of the District Courts of  
Bexar County, TX  
By: Lilyana Esquivel, Deputy

# **EXHIBIT A-7**

CERTIFIED MAIL #7016060000042384063



2017CI13020 500004

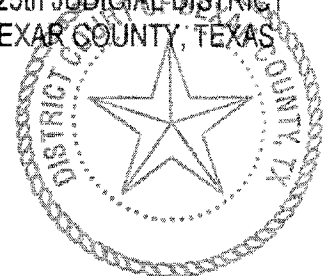
Case Number: 2017-CI-13020

**CEDAR POINT CONDOMINIUMS**

vs.

**EVEREST INDEMNITY INSURANCE COMPANY ET**

(Note: Attached document may contain additional litigants).

**CITATION**
 IN THE DISTRICT COURT  
 225th JUDICIAL DISTRICT  
 BEXAR COUNTY, TEXAS
**"THE STATE OF TEXAS"****DIRECTED TO:** ERIK JASKE
 1010 JORIE BLVD 140  
 OAKBROOK IL 60523

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE, a default judgment may be taken against you." Said CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE was filed on the 18th day of July, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 19TH DAY OF July A.D., 2017.

 CHAD T WILSON  
 ATTORNEY FOR PLAINTIFF  
 455 EAST MEDICAL CENTER BLVD 555  
 WEBSTER, TX 77598

 Donna Kay McKinney  
 Bexar County District Clerk  
 101 W. Nueva, Suite 217  
 San Antonio, Texas 78205
By: *Lilyana Esquivel*, Deputy
*mb 7/19/17*

 CEDAR POINT CONDOMINIUMS  
 vs  
 EVEREST INDEMNITY INSURANCE COMPANY ET
**Officer's Return**
 Case Number: 2017-CI-13020  
 Court: 225th Judicial District Court

Came to hand on the 19th day of July 2017, A.D., at 1:49 o'clock P.M. and EXECUTED (NOT EXECUTED) by CERTIFIED MAIL, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by delivering to: \_\_\_\_\_ at 1010 JORIE BLVD 140 OAKBROOK IL 60523 a true copy of this Citation, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE.

Cause of failure to execute this Citation is \_\_\_\_\_

 Donna Kay McKinney  
 Clerk of the District Courts of  
 Bexar County, TX  
 By: *Lilyana Esquivel*, Deputy



# **EXHIBIT A-8**

CERTIFIED MAIL #7016060000042384070



2817CI13020 500005

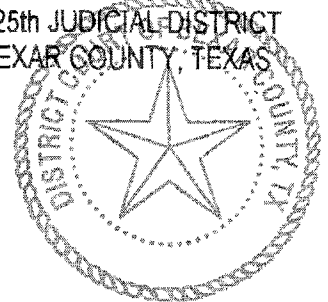
Case Number: 2017-CI-13020

**CEDAR POINT CONDOMINIUMS**

vs.

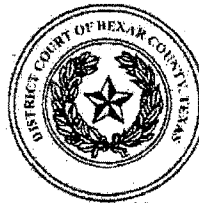
**EVEREST INDEMNITY INSURANCE COMPANY ET**

(Note: Attached document may contain additional litigants).

**CITATION**
 IN THE DISTRICT COURT  
 225th JUDICIAL DISTRICT  
 BEXAR COUNTY, TEXAS
**"THE STATE OF TEXAS"****DIRECTED TO:** HARMON HAMANN
 1914 ALPINE MIST  
 SAN ANTONIO TX 78258-7282

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE, a default judgment may be taken against you." Said CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE was filed on the 18th day of July, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 19TH DAY OF July A.D., 2017.

 CHAD T WILSON  
 ATTORNEY FOR PLAINTIFF  
 455 EAST MEDICAL CENTER BLVD 555  
 WEBSTER, TX 77598

 Donna Kay McKinney  
 Bexar County District Clerk  
 101 W. Nueva, Suite 217  
 San Antonio, Texas 78205
By: *Lilyana Esquivel*, Deputy

m/d 7/19/17

 CEDAR POINT CONDOMINIUMS  
 vs  
 EVEREST INDEMNITY INSURANCE COMPANY ET
**Officer's Return**
 Case Number: 2017-CI-13020  
 Court: 225th Judicial District Court

Came to hand on the 19th day of July 2017, A.D., at 1:52 o'clock P.M. and EXECUTED (NOT EXECUTED) by CERTIFIED MAIL, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by delivering to: \_\_\_\_\_ at 1914 ALPINE MIST SAN ANTONIO TX 78258-7282 a true copy of this Citation, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE.

Cause of failure to execute this Citation is \_\_\_\_\_

 Donna Kay McKinney  
 Clerk of the District Courts of  
 Bexar County, TX  
 By: *Lilyana Esquivel*, Deputy

# **EXHIBIT A-9**

CERTIFIED MAIL #70160600000042384049



Case Number: 2017-CI-13020

2017CI13020 500002

CEDAR POINT CONDOMINIUMS

vs.

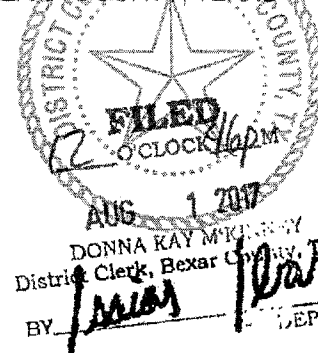
EVEREST INDEMNITY INSURANCE COMPANY ET

(Note: Attached document may contain additional litigants).

## CITATION

"THE STATE OF TEXAS"

DIRECTED TO: ENGLE MARTIN &amp; ASSOCIATES INC

5565 GLENRIDGE CONNECTOR 900  
ATANTA GA 30342IN THE DISTRICT COURT  
225th JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE, a default judgment may be taken against you." Said CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE was filed on the 18th day of July, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 19TH DAY OF July A.D., 2017.

CHAD T WILSON  
ATTORNEY FOR PLAINTIFF  
455 EAST MEDICAL CENTER BLVD 555  
WEBSTER, TX 77598



Donna Kay McKinney  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: Lilyana Esquivel, Deputy

CEDAR POINT CONDOMINIUMS  
vs  
EVEREST INDEMNITY INSURANCE COMPANY ET

## Officer's Return

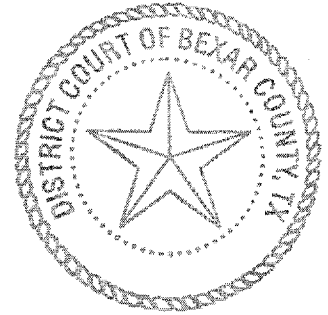
Case Number: 2017-CI-13020  
Court: 225th Judicial District Court

Came to hand on the 19th day of July 2017, A.D., at 1:46 o'clock P.M. and ~~EXECUTED~~ (NOT EXECUTED) by CERTIFIED MAIL, on the see green card day of and 20, by delivering to: San Wang at 5565 GLENRIDGE CONNECTOR 900 ATANTA GA 30342 a true copy of this Citation, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE.

Cause of failure to execute this Citation is \_\_\_\_\_

Donna Kay McKinney  
Clerk of the District Courts of  
Bexar County, TX  
By: Lilyana Esquivel, Deputy





Certified Mail

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

**OFFICIAL USE**

Certified Mail Fee  
 \$

Extra Services & Fees (check box, add fee to postage)

<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postage  
 \$

Postmark Here

ANTONIO, TX

ENGLE MARTIN & ASSOCIATES INC  
 5565 GLENRIDGE CONNECTOR 900  
 ATLANTA, GA 30342

2017C113020 7/19/2017 CITCM LILYANA ESQUIVEL


PS Form 3800, April 2015 PSN 7530-02-000-9037 SEE REVERSE FOR INSTRUCTIONS

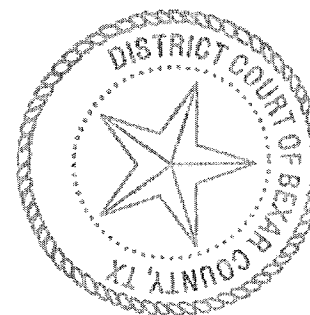
7016 0600 0000 4238 4049

Case Number: 2017CI13020

Document Type: ENTIRE FILE CERTIFIED

Page 42 of 51

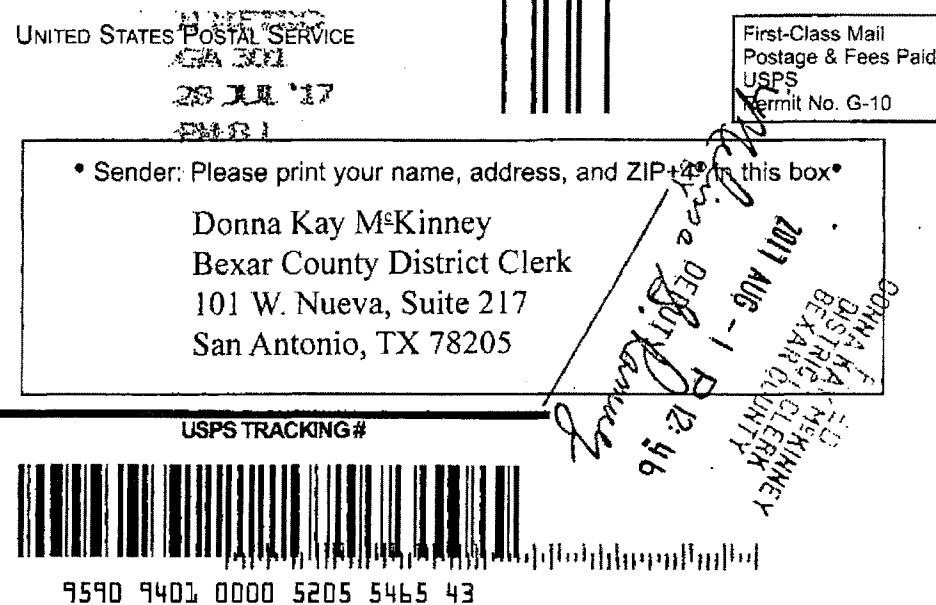
SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature  </p> <p>B. Received by (Printed Name)  Jan Wingo</p> <p>C. Date of Delivery</p>	
<p>1. Article Addressed to:</p> <p>ENGLE MARTIN &amp; ASSOCIATES INC  5565 GLENRIDGE CONNECTOR  ATLANTA, GA 30342</p>		<p>Address different from item 1? <input type="checkbox"/> Yes  delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from previous label)</p> <p>2017CI13020 7/19/2017 CATCH LILYAN ESQUIVEL</p> <p>7590 9401 0000 5205 5465 43</p> <p>7016 0600 0000 4238 4049</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Insured Mail Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>PS Form 3811, April 2015 PSN 7530-02-000-9051</p> <p>DOCUMENT SCANNED AS FILED</p> <p>Domestic Return Receipt</p>			



Case Number: 2017CI13020

Document Type: ENTIRE FILE CERTIFIED

Page 43 of 51



# **EXHIBIT A-10**

CERTIFIED MAIL #7016060000042384056



2017CI13020 500003

Case Number: 2017-CI-13020

CEDAR POINT CONDOMINIUMS

vs.

EVEREST INDEMNITY INSURANCE COMPANY ET

(Note: Attached document may contain additional filigants).

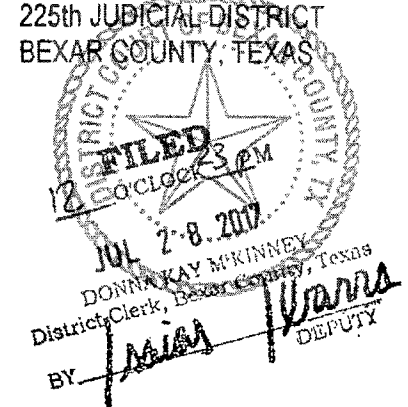
CITATION

"THE STATE OF TEXAS"

DIRECTED TO: EDWARD MARTIN SEWELL JR  
C/O ENGLE MARTIN & ASSOCIATES INC

17304 PRESTON RD 975  
DALLAS TX 78252

IN THE DISTRICT COURT  
225th JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS



"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE, a default judgment may be taken against you." Said CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE was filed on the 18th day of July, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 19TH DAY OF July A.D., 2017.

CHAD T WILSON  
ATTORNEY FOR PLAINTIFF  
455 EAST MEDICAL CENTER BLVD 555  
WEBSTER, TX 77598



Donna Kay McKinney  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: Lilyana Esquivel, Deputy

CEDAR POINT CONDOMINIUMS  
vs  
EVEREST INDEMNITY INSURANCE COMPANY ET

Officer's Return

Case Number: 2017-CI-13020  
Court: 225th Judicial District Court

Came to hand on the 19th day of July 2017, A.D., at 1:48 o'clock P.M. and ~~EXECUTED~~ (NOT EXECUTED) by CERTIFIED MAIL, on the 24 day of July 20 17, by delivering to: CHERYL BAKER at 17304 PRESTON RD 975 DALLAS TX 78252 a true copy of this Citation, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with ORIGINAL PETITION JURY DEMAND AND REQUEST FOR DISCLOSURE.

Cause of failure to execute this Citation is \_\_\_\_\_

Donna Kay McKinney  
Clerk of the District Courts of  
Bexar County, TX  
By: Lilyana Esquivel, Deputy

Case Number: 2017CI13020

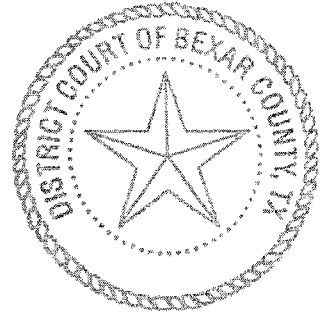
Document Type: ENTIRE FILE CERTIFIED

Page 45 of 51

RETURN TO COURT (DK003)

DOCUMENT SCANNED AS FILED





9504 9E24 0000 0090 9102

**U.S. Postal Service®**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Certified Mail Fee \$  
 Extra Services & Fees (check box, add fee as appropriate)  
☐ Return Receipt (hardcopy) \$  
☐ Return Receipt (electronic) \$  
☐ Certified Mail Restricted Delivery \$  
☐ Adult Signature Required \$  
☐ Adult Signature Restricted Delivery \$

Postage \$

EDWARD MARTIN SEWELL JR.  
 C/O ENGLE MARTIN & ASSOCIATES INC  
 17304 PRESTON RD 975  
 DALLAS, TX 78252

2017CI13020 7/19/2017 CITOM LILYANA ESQUIVEL  
 PS Form 3800, April 2015 PSN 7530-02-000-9007 See Reverse for Instructions

Postmark Here  
 JUL 20 2017  
 SAN ANTONIO TX

Case Number: 2017CI13020

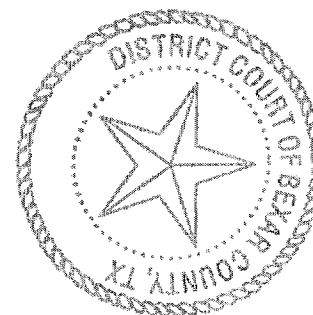
Document Type: ENTIRE FILE CERTIFIED

Page 47 of 51

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Address  <b>EDWARD MARTIN SEWELL JR</b>  <b>C/O JENLE MARTIN &amp; ASSOCIATES INC</b>  <b>17304 PAVAN RD #975</b>  <b>DALLAS, TX 78252</b></p>		<p>B. Received By (Printed Name)  <b>Cheryl Baker</b></p>	
<p>2. Article Number (Transfer from service label)  <b>7016 0600 0000 4238 4056</b></p>		<p>C. Date of Delivery  <b>7/24/17</b></p>	
<p>3. Service Type  <input type="checkbox"/> Adult Signature  <input type="checkbox"/> Adult Signature Restricted Delivery  <input type="checkbox"/> Certified Mail<sup>®</sup>  <input type="checkbox"/> Certified Mail Restricted Delivery  <input type="checkbox"/> Collect on Delivery  <input type="checkbox"/> Registered Mail<sup>™</sup>  <input type="checkbox"/> Registered Mail Restricted Delivery  <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Signature Confirmation<sup>™</sup>  <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>		<p>Address different from item 1? <input type="checkbox"/> Yes          If delivery address below: <input type="checkbox"/> No</p>	
<p>Barcode: 9590 9401 0000 5205 5465 36</p>		<p>Domestic Return Receipt</p>	

PS Form 3811, April 2015 PSN 7530-02-000-9063

DOCUMENT SCANNED AS FILED

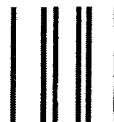


Case Number: 2017CI13020

Document Type: ENTIRE FILE CERTIFIED

Page 48 of 51

UNITED STATES POSTAL SERVICE  
26 JUL 17  
PM 5:1



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box •

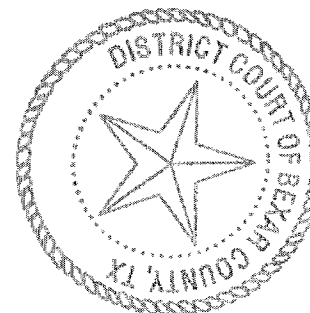
Donna Kay McKinney  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, TX 78205

USPS TRACKING#



9590 9401 0000 5205 5465 36

*Donna Kay McKinney*  
DEPUTY  
2017 JUL 28 P 12:23  
DONNA KAY MCKINNEY  
DISTRICT CLERK  
BEXAR COUNTY



# **EXHIBIT A-11**

§

20

§

2

20

§

§

8

8

§

§

28

8

Defendants Everest Indemnity Insurance Company (“Everest”), Engle Martin & Associates, Inc. (“Engle Martin”), Edward Martin Sewell, Jr., and Erik Jaske file this Original Answer to the Original Petition of Plaintiff Cedar Point Condominiums.

1. Pursuant to Texas Rule of Civil Procedure 92, Defendants generally deny the allegations in Plaintiff's Original Petition and demand strict proof thereof from Plaintiff by a preponderance of the evidence.

2. In addition to Defendants' general denial, Defendants plead the following affirmative defenses:



3. Everest's liability, if any, is derived solely from the policy of insurance issued by Everest. As a result of Everest's investigation to date, Everest believes that Plaintiff's claims may be barred, in whole or in part, by the terms, conditions, provisions, exclusions, sublimits and limitations of the Everest Policy, which are pled as if copied herein. Several of the exclusions are specifically pleaded below.



4. **Pre-Existing Building Damage**: Plaintiff's damages are excluded from coverage by the Policy endorsement entitled "Pre-Existing Building Damage Exclusion". Plaintiff's damages were caused, in whole or in part, by damage that existed prior to the time of loss or damage.

5. **Wear and Tear**: Plaintiff's damages are excluded by exclusion 2.d(1) found under the portion of the Policy entitled Causes of Loss—Special Form, because Plaintiff's alleged losses were caused by wear and tear.

6. **Hidden or Latent Defect**: Plaintiff's damages are excluded by exclusion 2.d(2) found under the portion of the Policy entitled Causes of Loss—Special Form, because Plaintiff's alleged losses were caused by hidden or latent defect.

7. **Settling, Cracking, Shrinking, or Expansion**: Plaintiff's damages are excluded by exclusion 2.d(4) found under the portion of the Policy entitled Causes of Loss—Special Form, because Plaintiff's alleged losses were caused by settling, cracking, shrinking, or expansion.

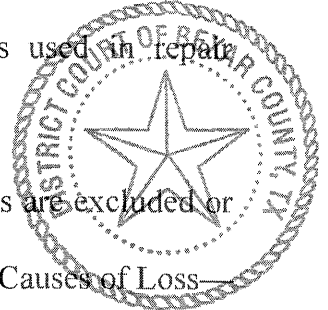
8. **Faulty, Inadequate, or Defective Conditions**: Plaintiff's damages are excluded by exclusions 3.c(2), (3), and (4) found under the portion of the Policy entitled Causes of Loss—Special Form, because the Plaintiff's losses were caused in whole or in

part by faulty, inadequate or defective design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction; materials used in repair construction, renovation or remodeling; or maintenance.

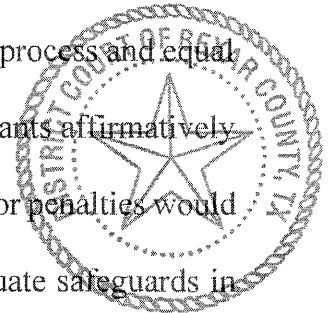
9. **Damage to Interior Caused by Rain:** Plaintiff's damages are excluded or limited by section C(1)(c) found under the portion of the Policy entitled Causes of Loss—Special Form, because any damage to the interior of the structures was caused by rain.

10. **Limitation on Recovery:** In the unlikely event that the Court finds Everest liable to Plaintiff in damages, Everest asserts that if any of Plaintiff's damages are covered by the Policy, Everest is obligated to pay only the "actual cash value" of any alleged damages under the portion of the Policy entitled "Roof Covering—Conditional Valuation" because of the age of the roof covering at the time of the alleged damage. Alternatively, Everest is only obligated to pay the "actual cash value" of the damages insofar as any damage has not been repaired, replaced, or rebuilt within a reasonable time as required by the Policy. Pleading further, Plaintiff has not provided Everest with the requisite documents to prove its entitlement to "replacement cost value" damages.

11. **Limitation on Exemplary, Additional or Treble Damages:** Defendants deny any liability to Plaintiff for alleged extra-contractual damages. Pleading alternatively, Defendants plead that any award to Plaintiff of exemplary, additional, treble or punitive damages or penalties is limited pursuant to Tex. Civ. Prac. & Rem. Code Chapter 41 and Tex. Ins. Code sections 541.152 and 542.060. Under the facts of this case, however, an award of exemplary, additional, treble or punitive damages or penalties consistent with the maximum awards permitted under these statutes would violate Defendants' State and



Federal constitutional rights. Defendants affirmatively plead that an award of exemplary, additional, treble or punitive damages or penalties would violate the due process and equal protection clauses of the United States and Texas Constitutions. Defendants affirmatively plead that an award of exemplary, additional, treble or punitive damages or penalties would be both arbitrary and excessive in that (1) Texas procedure lacks adequate safeguards in violation of the due process clauses of the United States and Texas Constitutions, and (2) Defendants would not be afforded equal protection against extra-contractual damages that would be limited or capped for others.



12. **Payment:** Defendant Everest asserts the affirmative defense of payment.

Everest made the following payments to Plaintiff:

- March 23, 2017: Payment in the amount of \$15,202.42 issued to Cedar Point Condominiums and Texas Claim Consultants.

13. Everest is entitled to a credit for the payments it has already issued to Plaintiff.

### **DENIAL OF CONDITIONS PRECEDENT**

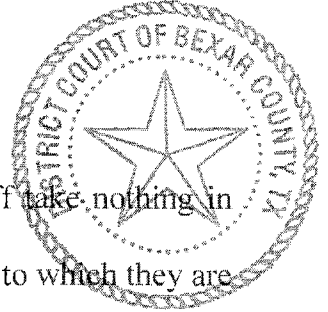
14. Defendant Everest denies that Plaintiff has complied with all conditions precedent to recovery under the Policy at issue in this case. Specifically, Plaintiff did not provide a signed and sworn proof of loss pursuant to the terms of the policy for all the damages it claims by way of this suit.

15. Further, the Policy obligates Plaintiff to cooperate with Everest in the event of a loss. Plaintiff's duties are conditions precedent to recovery under the Policy. Everest denies that Plaintiff complied with those conditions precedent. Specifically, and without

limitation, Plaintiff failed to provide Everest with a number of items that Everest requested in connection with the investigation of Plaintiff's claim.

**REQUEST FOR RELIEF**

16. Defendants request that judgment be entered that Plaintiff take nothing in this action and that Defendants recover all costs and have all other relief to which they are entitled.



Respectfully submitted,

/s/ Andrew C. Nelson

Thomas C. Wright  
State Bar No. 22059400  
Andrew C. Nelson  
State Bar No. 24074801  
WRIGHT & CLOSE, LLP  
One Riverway, Suite 2200  
Houston, Texas 77056  
(713) 572-4321  
(713) 572-4320 (facsimile)  
wright@wrightclose.com  
nelson@wrightclose.com

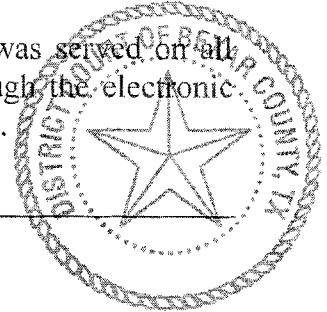
**ATTORNEYS FOR DEFENDANTS  
EVEREST INDEMNITY INSURANCE  
COMPANY, ENGLE MARTIN &  
ASSOCIATES, INC, EDWARD MARTIN  
SEWELL, JR., AND ERIK JASKE**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this document was served on all counsel of record in this case on August 18, 2017 electronically through the electronic filing manager or in compliance with Texas Rule of Civil Procedure 21a.

/s/ Andrew C. Nelson

Andrew C. Nelson





# **EXHIBIT A-12**

Donna Kay M<sup>c</sup>Kinney

District Clerk



Bexar County

**CERTIFICATE**

(Entire File)

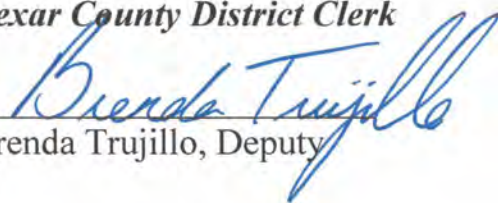
**STATE OF TEXAS  
COUNTY OF BEXAR**

I, Brenda Trujillo, Deputy District Clerk for **Donna Kay M<sup>c</sup>Kinney**, District Clerk of Bexar County, Texas, do hereby certify that the documents found to be in Cause Number 2017-CI-13020 and Styled CEDAR POINT CONDOMINIUMS VS EVEREST INDEMNITY INSURANCE COMPANY ET AL. filed in the 225th Judicial District Court of Bexar County, Texas, and which represents the content of the entire file and certified as being held and recorded within the District Clerk's Office of Bexar County, Texas.

**GIVEN UNDER MY HAND AND OFFICIAL SEAL** of said court at the office in the City of San Antonio, Bexar County, Texas, on this the August 21, 2017.

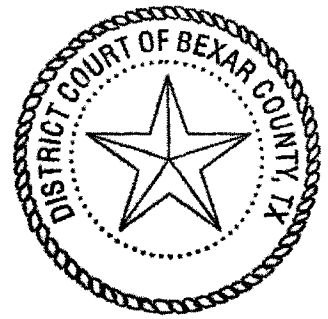
**Donna Kay M<sup>c</sup>Kinney**  
**Bexar County District Clerk**

By:

  
Brenda Trujillo, Deputy



CERTIFIED COPY CERTIFICATE STATE OF TEXAS  
I, DONNA KAY MCKINNEY, BEXAR COUNTY DISTRICT  
CLERK, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE AND CORRECT COPY OF THE ORIGINAL  
RECORD NOW IN MY LAWFUL CUSTODY. WITNESS  
MY OFFICIAL HAND AND SEAL OF OFFICE ON THIS:



*August 21, 2017*

**DONNA KAY MCKINNEY  
BEXAR COUNTY, TEXAS**

By: \_\_\_\_\_

*Brenda Trujillo*  
BRENDA TRUJILLO, Deputy District Clerk

(NOT VALID WITHOUT THE CLERK'S ORIGINAL SIGNATURE.)

# **EXHIBIT A-13**



---

## Case #2017CI13020

**Name:**

**Date Filed** : 07/18/2017

**Case Status** : PENDING

**Litigant Type** : PLAINTIFF

**Court** : 225

**Docket Type** : DEBT/CONTRACT

**Business Name** : CEDAR POINT CONDOMINIUMS

**Style** : CEDAR POINT CONDOMINIUMS

**Style (2)** : vs EVEREST INDEMNITY INSURANCE COMPANY ET AL

---



## Case History

Currently viewing 1 through 9 of 9 records

Sequence	Date Filed	Description
P00004	8/18/2017	ORIGINAL ANSWER OF EVERST INDEMNITY INSURANCE COMPANY, ENGL E MARTIN & ASSOCIATES INC, EDWARD MARTIN SEWELL JR AND REIK JASKE
S00005	7/19/2017	CITATION CERTIFIED MAIL HARMON HAMANN ISSUED: 7/19/2017 RECEIVED: 7/19/2017 EXECUTED: 7/24/2017 RETURNED: 7/28/2017
S00004	7/19/2017	CITATION CERTIFIED MAIL ERIK JASKE ISSUED: 7/19/2017
S00003	7/19/2017	CITATION CERTIFIED MAIL EDWARD MARTIN SEWELL JR ISSUED: 7/19/2017
S00002	7/19/2017	CITATION CERTIFIED MAIL ENGLE MARTIN & ASSOCIATES INC ISSUED: 7/19/2017 RECEIVED: 7/19/2017 RETURNED: 8/1/2017
S00001	7/19/2017	CITATION CERTIFIED MAIL EVEREST INDEMNITY INSURANCE COMPANY ISSUED: 7/19/2017
P00003	7/18/2017	JURY FEE PAID
P00002	7/18/2017	SERVICE ASSIGNED TO CLERK 2
P00001	7/18/2017	PETITION WJD